

MINUTES  
Policemen's Pension and Relief Fund  
Thursday, April 8, 2010

On Thursday, April 8, 2010 at 9:00 a.m., a meeting of the Board of Trustees of the Policemen's Pension and Relief Fund of the City of Little Rock, Arkansas was held in the Sister Cities Conference Room at City Hall.

PRESENT:	Bruce Moore	Chairman
	Farris Hensley	Secretary
	Sara Lenehan	Treasurer
	Brad Furlow	Member
	Lee Harrod	Member
	Mike Lowery	Member
	David Rowan	Member

ABSENT:

Also present were Mr. Bo Brister and Mr. Larry Middleton, Stephens Capital Management, Financial Consultants for the Fund; Mr. John Petty, Dover Dixon Horne Law Firm, Legal Consultant for the Fund; Mr. Roger Smith, Government Relation Lobbyist for the Fund; Mr. Jim McDaniel, Mr. Steve Young, and Mr. Don Wood, Retired Members of the Fund; Mr. Rick Robinson, MetLife Investments; and Mrs. Kathy Lindsey, Pension Fund Administrative Staff.

Mr. Moore called the meeting to order at approximately 9:19 a.m., certifying that a quorum of the Board was present and that the media had been properly notified in a letter dated March 30, 2010 to the Arkansas Democrat Gazette.

Copies of the March minutes had previously been submitted to Board members prior to the meeting. Mr. Hensley stated a corrected copy had previously been emailed to Board Members with three changes. Due to staff having not received the corrected copy, it was not included in the packet presented to Board Members. Mr. Furlow made a motion to table discussion of the minutes until copies of the corrected agenda was made and distributed. Mr. Lowery seconded the motion and it passed.

After copies were distributed, Mr. Hensley stated there were three changes. One of the changes was on page two, last paragraph, last two sentences. It should read, "*A vote was taken on the motion and recorded as, For: Mr. Hensley, Mr. Harrod, Mr. Lowery, Mr. Furlow and Mr. Rowan. Against: Mr. Moore and Mrs. Lenehan. The motion passed.*"

The next change was on page four, third paragraph, second line, which should read *(\$1,196,800) and not (\$101,624). The last line should read \$175,352 not \$767,779.*

The third amendment was on page five, first paragraph, which should read *sixteen (16) responses not nineteen (19).*

Mr. Moore asked for another amendment on page four, first paragraph, last sentence, to include "*However, Mr. Moore stated that a vote against the motion was not directed at Mr. Harrod but more directed toward the process.*"

After discussion, Mr. Harrod made a motion to approve the four amendments. Mrs. Lenehan seconded the motion and it passed unanimously. Mr. Lowery made a motion to approve the amended minutes. Mr. Rowan seconded the motion and it passed unanimously.

Mr. Brister and Mr. Middleton gave the March 2010 financial report and stated that on March 31, 2010, the market value of the total fund was \$47,320,389, of which \$23,673,529 was allocated to DROP. This represents a decrease in the account balance of (\$178,766) since February 28, 2010. The component of this change was income of \$81,031, and net contributions/withdrawals of (\$1,367,590). Additionally, \$883,674.54 was held in the Metropolitan Checking Account. The fund's overall market rate of return for the month of March 2010 was 2.52% and 2.61% calendar year to date. Mr. Brister said the fund is up by 4.05% as of April 7, 2010.

Mr. Smith reported concerning the recent presentation to the Little Rock City Board of Directors, and said that they were very attentive, and asked several questions. Mr. Smith also explained that both he and Mr. Carreiro were concerned that some members of the Board may have mistakenly gotten the impression that the Police Pension Fund was financially sound a year or two ago, when it actually was not. This was in part because one of the Board members asked that if the fund should merge with the State Pension Retirement System (LOPFI), and if the financial markets improved, would it be a benefit to the Pension Plan. Mr. Smith indicated that it would be a benefit because, even though the money is co-mingled and managed in one pool, the overall performance of it applies to the outstanding debt for each of the under funded plans that have merged. He stated that it would in essence reduce the contribution rate of the City, if the market improved during the fifteen (15) year amortization period.

Members of the City Board had also indicated that they were receptive to participating on a proposed committee to address funding issues. Mr. Moore suggested that the matter be placed on the May Pension Board Meeting Agenda for discussion, at which time he would recommend a specific member of the City Board to act as a liaison or committee member. The matter was tabled until May.

Mr. Petty reported on the lawsuit concerning past benefit increases, and said that a hearing on the summary judgment has been scheduled for June 30, 2010 at 9 a.m.

Mr. Petty then addressed the issue previously posed by Mr. Hensley about Mr. Peace's billing practices. Mr. Petty stated that he had talked with Mr. Peace who was standing by his previous statement contained in the February memo to the Board concerning the matters. Mr. Petty said that because the Board may not have been notified in January and February 2007 of the rate change, a credit of \$1,300 had already been given. He also stated that beginning in March 2007 itemized statements were issued showing each attorney's hourly rate. Mr. Hensley requested that legal counsel provide a written report to the Board explaining exactly how an itemized billing statement constitutes "having given prior notice" of an hourly rate increase, which was apparently required by terms of the existing contract.

Mr. Petty distributed a letter that Mr. Peace had previously drafted regarding the Age 70 ½ DROP distribution rule. Mr. Hensley made a motion to adopt the procedure as outlined in the letter from Mr. Peace. Mr. Furlow seconded the motion. Upon further discussion, Mr. Hensley amended his motion to remove a requirement of having the pension office purchase a commercial annuity. Mr. Furlow seconded the amended motion and it passed unanimously.

Mr. Petty recommended allowing legal counsel to approve Qualified Domestic Relation Orders (QDROs) subject to ratification by the Board at the following meeting when time sensitive QDROs are set to begin prior to the next scheduled board meeting. Mr. Furlow made a motion that the recommendation made by legal counsel concerning approval of QDROs be accepted. Mrs. Lenehan seconded the motion and it passed unanimously.

Mr. Petty reported concerning a process for Board Members to request legal advice or research outside of a Pension Board meeting. He explained that when a Board member emails legal counsel requesting legal advice or research and then engages in dialogue with other Board members it constitutes a violation of the Freedom of Information Act (FOIA). When discussion results from a previous meeting through email, it is subject to the public meeting provision of FOIA. Arkansas Code states that the time and place of public meetings must be furnished to citizens and media outlets that have requested such notice. For special or emergency meetings, notice only has to be given to media outlets that have previously made such requests. Mr. Young asked how a Board member could email the attorney, copy other members, and be considered attorney/client privileges. Mr. Petty explained that the FOIA simply trumps attorney/client privileges regarding such matters.

Mr. Furlow then made a motion that all future requests from Board members to the attorney for legal opinions only be made in a regular or special meeting; however, the motion failed due of a lack of a second.

Mrs. Lenehan addressed the matter and said that there are times when Pension administrative staff needs to contact legal counsel regarding issues, and that they are currently allowed to do so. Mr. Moore stated that it is important that the administrative staff be able to continue conducting routine business with legal counsel. Mr. Rowan said that when a Board member contacts legal counsel, they are incurring costs to the fund and he is not supportive of an individual having the authority to incur unlimited costs to the fund. Mr. Hensley said that Board members have followed such a procedure for many years, and it has not caused a problem or incurred unreasonable expenses to the fund. He said that in his opinion an elected Board member representative should have as much discretion concerning such matters as a member of the administrative staff. Mr. Lowery said that if a Board member consults legal counsel regarding an issue, other Board members should continue to be made aware of it prior the following meeting.

Following discussion, Mr. Petty was asked to provide the Board with written guidance regarding a policy or procedure that comports with the FOIA, and allows Board members to request legal advice or opinions. The matter was tabled.

Mrs. Lenehan submitted copies of the un-audited financial report for March 2010. Losses to the plan year-to-date through March 31, 2010 were (\$438,804). The report indicated that as of March 31, 2010, the total account fund balance including the DROP was \$48,153,917. The net gain for the month of March was \$757,996.

Also submitted were copies of the March 2010 expense and legal fee reports. Total expenditures, excluding benefit related expenses, were \$2,232.58 for the month, and totaled \$8,827.32 year to date. Legal fees paid for the month of March were \$4,743.50, and totaled \$7,746.50 year to date.

Following review of the March financial and expense reports, Mr. Furlow made a motion to approve them as submitted. Mr. Hensley seconded the motion and it passed unanimously.

Mrs. Lindsey reported concerning the nomination process, and said that Mr. Mike Lowery and Mr. Don Woods were nominated for position two (2). Mr. Brad Furlow and Mr. Steve Young were nominated for position four (4). Mrs. Lindsey told the Board that ballots were scheduled to be mailed Monday, April 12<sup>th</sup> and must be received in the pension administrative offices no later that Monday, May 10<sup>th</sup>. Mr. Hensley made a motion to approve the ballot process as previously detailed by Mrs. Lindsey. Mr. Harrod seconded the motion it passed unanimously.

At the March meeting, Mr. Furlow had told the Board that it was his understanding the \$1,800.00 paid annually to Board members was to cover any expenses for the member, and requested that pension administrative personnel provide a written report to the Board concerning any past direct expense reimbursements to Board members. At the current meeting, Mrs. Lenehan provided the Board with a report indicating that Mr. Hensley had submitted additional expenses totaling \$540.31 over the past four (4) years. They were associated with the production of the pension minutes, agenda, and other secretarial related expenses. Mr. Harrod had submitted receipts for \$150.09 in additional expenses in 2008. They were for McAfee Internet Computer Security, a small package of paper and an ink cartridge.

Mr. Furlow spoke and said he was concerned that the Pension Board was trying to “save money everywhere we can” and thought that the expenses listed in Mrs. Lenehan’s report should have been “approved in advance by the Board” prior to being reimbursed. Mr. Hensley told the Board that he did not understand exactly why Mr. Furlow needed an additional report from the administrative office regarding the matter, because every reimbursement listed in the report had previously been submitted in monthly expense reports and approved by the Board. He explained that he was still willing to relinquish the secretarial duties to any other member of the Board who was willing to spend the necessary additional time to perform the duties. He also said that Mr. Harrod was the only other Board member who consistently takes time to attend State Legislative meetings, Fire and Police Fire and Police Pension Review Board (PRB) meetings, and should be reimbursed for his minimal direct expenses. Mr. Moore said that he believes the secretary position is different and should receive reimbursements. Mr. Harrod told the Board that the \$150.00 paid monthly does not cover his total expenses, and that he had recently submitted a repair bill in the amount of \$129.00 for the Pension Fund’s lap top computer; however, he had not yet been reimbursed.

Following the lengthy discussion, it was determined that the Board would continue its current practice of relying on the judgment of Pension Board members for submitting additional direct expenses, which are then listed on the monthly expense reports, and would also reimburse Mr. Harrod for the Pension Board computer repair.

At approximately 11:25 a.m., Mr. Rowan and Mr. Moore excused themselves from the meeting. Mr. Moore appointed Mr. Lowery to Chair the remainder of the meeting, and said that he would be rotating Board members to Chair future meetings in his absence.

Mrs. Lenehan reported concerning the Request for Qualifications (RFQ) process for Financial Advisor, and said that rating sheets and guidelines had previously been emailed to Board Members; however, Mr. Hensley had responded and requested additional time to complete his review. Mrs. Lenehan asked that the rating sheets be returned to the pension office by Tuesday, May 11, 2010 to allow the administrative staff adequate time to process them prior to the May meeting.

The RFQ for Legal Counsel has been posted with a deadline of April 26, 2010 for all responses.

Mr. Young addressed the Board and said that he had received a letter of response from Governor Mike Beebe regarding the treatment of Mr. Harrod by Mr. Bill Lundy, Chairman of the PRB during their March 2, 2010 meeting. The letter read as follows:

*Thank you for sharing your concerns with me about your dissatisfaction with Bill Lundy as a member of the Arkansas Fire and Police Pension Review Board. I have personally sat down with Mr. Lundy and discussed this situation with him, letting him know that his behavior at the March 2<sup>nd</sup>*

*meeting was unacceptable. He has assured me that, hence forward, he will work to improve relations with his fellow board members. I always appreciate hearing your concerns. If you have additional thoughts, questions, or concerns, please feel free to call on my office.*

Mr. Harrod stated that he had recently received a telephone call from the Governor's Office asking if Mr. Lundy had apologized, because his reappointment to the PRB was apparently conditional upon him (Mr. Lundy) apologizing to both Mr. Harrod and Mr. Hensley. He (Mr. Harrod) told the Board that Mr. Lundy did call him and asked to put their differences aside, however did not formally apologize for the incident. He said that he had asked Mr. Lundy if he would apologize to the PRB, and others who might have been offended by his actions, but failed to get such a commitment from him. Mr. Harrod said that Mr. Lundy has not apologized to him or Mr. Hensley.

Mr. Hensley told the Board that he would formally request that the matter be placed on the June PRB meeting agenda for further review.

During the March meeting Mr. Young asked if there is currently a \$50.00 City fee being charged for service of outstanding warrants. He explained that State Statute currently authorizes the fee, and if it is not being collected, it could be implemented and designated for Police Pension funding. At the current meeting, Mrs. Lenehan told the Board that research had been conducted and there are currently no fees being charged for the service of warrants, and that to implement a fee, would apparently take enabling State Legislation followed by action of the City Board of Directors.

Mr. Young stated that he did not see what "enabling action it would take at the State legislature when there is already a section of Arkansas Code that specifically states" we have that authority. Upon request from Mr. Lowery, Mr. Young said that he would provide the relevant Code sections to the Pension Fund attorney for his review.

Upon conclusion of Pension Board business, Mr. Furlow made a motion to adjourn the meeting. Mrs. Lenehan seconded the motion, and meeting adjourned at approximately 11:44 a.m.

Respectfully Submitted,

Farris Hensley  
Board Secretary